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TRAINING AND TECHNICAL ASSISTANCE

Note by the Secretariat

CONTENTS

		Paragraphs	Page
INTRODUCTION		1-2	2
I.	TRENDS IN TRAINING AND TECHNICAL ASSISTANCE	3-4	2
II.	TECHNICAL ASSISTANCE TO STATES IN PREPARATION AND IMPLEMENTATION OF LEGISLATION	5-8	3
III.	UNCITRAL SEMINARS AND BRIEFING MISSIONS	9-12	4
IV.	OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS	13-14	5
V.	INTERNSHIP PROGRAMME	15-16	8
VI.	FUTURE ACTIVITIES	17-18	8
VII.	FINANCING PROGRAMME IMPLEMENTATION	19-24	8

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INTRODUCTION

1. Pursuant to the decision taken at the twentieth session of the Commission (1987), training and assistance activities count among the high priorities of UNCITRAL.1/ The training and technical assistance programme carried out by the secretariat under the mandate given by the Commission, particularly in developing countries and in countries whose economic systems are in transition, encompasses two main lines of activity: (a) information activities aimed at promoting the knowledge of international commercial law conventions, model laws and other legal texts; and (b) assisting Member States in their efforts towards commercial law reform and towards the adoption of UNCITRAL texts.

2. This note sets out the activities of the secretariat subsequent to the thirtieth session of the Commission (12 - 30 May 1997) and discusses possible future training and technical assistance activities in the light of the trends in the demand for such services from the secretariat.

I. TRENDS IN TRAINING AND TECHNICAL ASSISTANCE

3. There is a continuing and significant increase in the importance being attributed by Governments, domestic and international business communities and multilateral and bilateral aid agencies to the improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in this process because it has produced and promotes the use of legal instruments in a number of key areas of commercial law which represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) in the area of sales, the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods;

(b) in the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules, the UNCITRAL Conciliation Rules, the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Notes on Organizing Arbitral Proceedings;

(c) in the area of procurement, the UNCITRAL Model Law on Procurement of Goods, Construction and Services;

(d) in the area of banking, payments and insolvency, the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, the UNCITRAL Model

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1/ Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

Law on International Credit Transfers, the United Nations Convention on International Bills of Exchange and International Promissory Notes, and the UNCITRAL Model Law on Cross-Border Insolvency; and

(e) in the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules) and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade; and

(f) in the area of electronic commerce and data interchange, the UNCITRAL Model Law on Electronic Commerce.

4. The upsurge in commercial law reform represents a significant and crucial opportunity for UNCITRAL to significantly further the objectives of substantial coordination and acceleration of the process of harmonization and unification of international trade law, as envisaged by General Assembly resolution 2205 (XXI) of 17 December 1966.

II. TECHNICAL ASSISTANCE TO STATES IN PREPARATION AND IMPLEMENTATION OF LEGISLATION

5. Technical assistance is provided to States preparing legislation based on UNCITRAL legal texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the view point of UNCITRAL legal texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL legal texts, preparation of regulations implementing such legislation, comments on reports of law reform commissions as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL legal texts embodied in national legislation. Another form of technical assistance provided by the secretariat consists in advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in this area.

6. With a view to maximizing the benefit that recipient countries derive from UNCITRAL technical assistance, the secretariat has taken steps towards increasing cooperation and coordination with development assistance agencies. Cooperation and coordination among entities providing legal technical assistance has the desirable effect of ensuring that, when United Nations system entities or outside entities are involved in providing legal technical assistance, the legal texts prepared by the Commission and recommended by the General Assembly to be considered are in fact so considered and used. The secretariat is continuing its efforts in this regard.

7. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial owing to the secretariat's accumulated experience in the preparation of UNCITRAL legal texts. It helps establish legal systems that not only are internally consistent, but also utilize internationally developed trade law conventions, model laws and other legal texts. The resulting legal harmonization maximizes the ability of business parties from different States to successfully plan and implement commercial transactions.

8. States that are in the process of revising their trade legislation may wish to contact the UNCITRAL secretariat in order to obtain technical assistance and advice.

III. UNCITRAL SEMINARS AND BRIEFING MISSIONS

9. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for Government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations, e.g., Uniform Customs and Practice for Documentary Credits and INCOTERMS (International Chamber of Commerce); Factoring Convention (International Institute for the Unification of Private Law (UNIDROIT).

10. Lectures at UNCITRAL seminars are generally given by one or two members of the secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the UNCITRAL secretariat remains in contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL legal texts.

11. Since the previous session, the secretariat organized seminars in a number of States. The following seminars and briefing missions were financed with resources from the Trust Fund for UNCITRAL Symposia:

- Stellenbosch, South Africa (11 March 1997), seminar held in cooperation with the University of Stellenbosch, Faculty of Law; attended by approximately 90 participants;

- Cartagena, Colombia (14 - 15 April 1997), seminar held in cooperation with the Ministry of Justice and the Chamber of Commerce; attended by approximately 70 participants;

- Bogota, Colombia (17 - 18 April 1997), briefing of 20 officials of the Ministries of Justice and Trade;

- Quito, Ecuador (21 - 22 April 1997), seminar held in cooperation with Crespo Abogados; attended by approximately 40 participants;

- Lima, Peru (24 - 26 April 1997), seminar held in cooperation with the Iberoamerican Institute of International Economic Law and the Bar Association of Lima; attended by approximately 100 participants; and

- Nicosia, Cyprus (9 - 10 October 1997), seminar held in cooperation with the Office of the Attorney-General of Cyprus; attended by approximately 100 participants.

12. The following seminars and briefing missions were financed by the institution organizing the event or by another organization:

- Thessaloniki, Greece (12 - 13 September 1997), seminar held in cooperation with the Faculty of Law, Aristotle University of Thessaloniki, the Thessaloniki Bar Association and the Technical Chamber of Greece; attended by approximately 100 participants;

- Dubai, United Arab Emirates (10 December 1997), seminar held in cooperation with the Dubai Chamber of Commerce; attended by approximately 200 participants; and

- Valetta, Malta (24 - 25 February 1998), seminar held in cooperation with the Malta External Trade Corporation; attended by approximately 30 participants.

IV. OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS

13. Members of the UNCITRAL secretariat have participated as speakers in various seminars, conferences and courses, where UNCITRAL legal texts were presented for examination and possible adoption or use. The participation of members of the secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

- Symposium on International Bankruptcy Law: Comparative and Transnational Approaches, sponsored by the Texas International Law Journal/University of Texas School of Law and the Texas International Law Society (Austin, Texas, United States of America, 20 - 21 March 1997);

- International Trade Law Post Graduate Course sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 14 April 1997);

- International Conference on the New German Law on Arbitration sponsored by the German Institution for Arbitration (Berlin, Germany, 23 April 1997);

- Meeting of the U.S. Study Group on Standby Practices sponsored by the Institute of International Banking Law and Practice (Chicago, Illinois, United States of America, 7 - 9 June 1997);

- International Science Colloquium - Issues of Insolvency Law sponsored by the Institute for Commercial Law of Maribor (Maribor, Slovenia, 24 June 1997);

- Meeting of the Joint Committee of the Algerian Agency for the Promotion of Foreign Investments, World Bank and UNIDO sponsored by the Government of Algeria (Algers, Algeria, 21 - 22 July 1997);

- FOBAPROA Workshop: "Key Issues in a Successful Insolvency Resolution Programme for Mexico" sponsored by FOBAPROA and Valuación y Venta de Activos (Mexico) (Mexico City, Mexico, 5 - 6 September 1997);

- Jubilee International Conference: "Settlement of International Commercial Disputes" sponsored by the Arbitration Court at the Chamber of Commerce and Industry (Moscow, Russian Federation, 25 September 1997);

- Second International Conference on Build-Own-Transfer (BOT) Projects sponsored by the Cairo Regional Centre for International Commercial Arbitration and the International Law Institute (Cairo, Egypt, 7 - 9 October 1997);

- Arbitration Law Workshop sponsored by the Korean Academy of Arbitration (Seoul, Korea, 24 - 25 October 1997);

- Fifty-third Annual Convention: "Asset-Based Financial Services Industry" sponsored by the Commercial Finance Association (Philadelphia, Pennsylvania, 5 - 7 November 1997);

- Post-Graduate Course at the University of Maribor, Faculty of Law (Maribor, Slovenia, 7 - 8 November 1997);

- Chartered Institute of Arbitrators Arbitration Course (New Delhi, India, 8 - 11 November 1997);

- International Entry and Special Fellowship Courses on Arbitration sponsored by the Chartered Institute of Arbitrators and the Cairo Regional Centre for International Commercial Arbitration (Cairo, Egypt, 12 - 17 December 1997);

- Internet Law and Policy Forum (ILPF) International Conference: Releasing the Internet Economy - Content and Electronic Commerce (Seattle, Washington, United States of America, 7 - 8 January 1998);

- ABA SONREEL/AIPN Symposium on Arbitration of International Energy Disputes sponsored by the American Bar Association and SONREEL/AIPN (Houston, Texas, United States of America, 21 - 22 January 1998);

- Swiss Arbitration Association Workshop (Ebnat-Kappel, Switzerland, 22 - 25 January 1998);

- Meeting on International Standby Practices sponsored by the Institute of International Banking Law and Practice (New York, New York, United States of America, 26 - 29 January 1998);

- International Law Institute/UNCITRAL Regional Conference: "The Legal Framework for B.O.O. and B.O.T. Projects" (Santo Domingo, Dominican Republic, 16 February 1998); and

- Seminar on Intellectual Property, Licensing and Dispute Resolution sponsored by the World Intellectual Property Organization (WIPO) and the Cairo Regional Centre for International Commercial Arbitration (Cairo, Egypt, 9 - 10 March 1998).

14. The participation of members of the UNCITRAL secretariat as speakers in the conferences listed below was financed with resources from the United Nations regular travel budget:

- UNCITRAL/INSOL Second Multinational Judicial Colloquium and the INSOL International Fifth World Congress sponsored by INSOL (New Orleans, Louisiana, United States of America, 22 - 26 March 1997);

- Pan American Surety Association (PASA) XIII International Seminar sponsored by PASA (Buenos Aires, Argentina, 7 - 9 May 1997);

- The International Lawyer Symposium (Austin, Texas, United States of America, 16 - 18 June 1997);

- Eighth Annual Workshop: "The Arbitration of Global Projects" sponsored by the Institute for Transnational Arbitration (Austin, Texas, United States of America, 19 - 20 June 1997);

- XLI Congress of the Union Internationale des Avocats (Philadelphia, Pennsylvania, United States of America, 4 - 7 September 1997);

- UN/UNCITRAL/Union Internationale des Avocats Day at United Nations Headquarters (New York, New York, United States of America, 8 September 1997);

- Arbitration Conference of the Indian Council of Arbitration (New Delhi, India, 30 - 31 October 1997);

- London Court of International Arbitration Arbitrators Symposium (Agra, India, 1 - 2 November 1997);

- International Bar Association, Section on Business Law, 1997 Conference (New Delhi, India, 3 - 7 November 1997);

- International Law Weekend 1997 sponsored by the American Branch of the International Law Association (New York, New York, United States of America, 8 November 1997);

- 1997 Fall Meeting of the Section of International Law and Practice of the American Bar Association and the Inter-American Bar Association Council Meeting (Miami, Florida, United States of America, 13 - 16 November 1997);

- "Dismantling the Barriers to Global Electronic Commerce" Conference sponsored by the Organization for Economic Cooperation and Development (Turku, Finland, 19 - 21 November 1997);

- Symposium on New Arbitration Rules sponsored by the German Institution of Arbitration (Cologne, Germany, 26 November 1997);

- Second 1997 London Court of International Arbitration European Council Symposium and the International Council for Commercial Arbitration Council Meeting (Paris, France, 28 - 29 November 1997);

- United Nations Conference for Trade and Development (UNCTAD) Commission on Enterprise, Business Facilitation and Development (Geneva, Switzerland, 1 - 5 December 1997);

- Fifth International Arbitration Conference sponsored by the Croatian Chamber of Commerce (Zagreb, Croatia, 4 - 5 December 1997); and

- European Law Students Association (ELSA) Trade Law Seminar and lectures at the International Maritime Law Institute (Valetta, Malta, 16 - 17 February 1998).

V. INTERNSHIP PROGRAMME

15. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the secretariat has hosted 14 interns from Austria, Bulgaria, Canada, Germany, Italy, Mexico, the Netherlands, the United Kingdom and the United States of America. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. As no funds are available to the secretariat to assist interns to cover their travel or other expenses, interns are often sponsored by an organization, university, Government agency or they meet their expenses from their own means. The Commission may wish, in this connection, to invite Member States, universities and other organizations, in addition to those that already do so, to consider sponsoring the participation of young lawyers in the United Nations internship programme with UNCITRAL.

16. In addition, the secretariat occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the Branch and in the UNCITRAL Law Library for a limited period of time.

VI. FUTURE ACTIVITIES

17. For the remainder of 1998, seminars and legal-assistance briefing missions are being planned in Africa, Asia, Latin America and Eastern Europe. Since the costs of training and technical assistance activities is not covered by the regular budget, the ability of the secretariat to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for UNCITRAL Symposia.

18. As it has done in recent years, the secretariat has agreed to co-sponsor the next three-month International Trade Law Post-Graduate Course to be organized by the University Institute of European Studies and the International Training Centre of the International Labour Organization in Turin. Typically, approximately half of the participants are drawn from Italy, with many of the remainder being drawn from developing countries. This year's contribution from the UNCITRAL secretariat will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

VII. FINANCING PROGRAMME IMPLEMENTATION

19. The secretariat continues its efforts to devise a more extensive training and technical assistance programme to meet the considerably greater demand from States for training and assistance in keeping with the call of the Commission at the twentieth session (1987) for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for UNCITRAL seminars are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those that are funded by funding agencies such as the World Bank) have to be met by voluntary contributions to the Trust Fund for UNCITRAL Symposia.

20. Given the importance of extra-budgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund for UNCITRAL Symposia, particularly in the form of multi-year contributions, so as to facilitate planning and enable the secretariat to meet the increasing demands in developing countries and newly independent States for training and assistance. The secretariat can be contacted for information on how to make contributions.

21. In the period under review, a contribution from Switzerland was made for the seminar programme. The Commission may wish to express its appreciation to those States and organizations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

22. In this connection, the Commission may wish to recall that, in accordance with General Assembly Resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a Trust Fund for granting travel assistance to developing States Members of the United Nations Commission on International Trade Law. The Trust Fund so established is open to voluntary financial contributions from States, inter-governmental organizations, regional economic integration organizations, national institutions and non-governmental organizations as well as natural and juridical persons.

23. At its thirtieth session, the Commission noted with appreciation that the General Assembly, in resolution 51/161, paragraph 10, had appealed to Governments, the relevant United Nations organs, organizations and institutions and individuals, in order to ensure full participation by all member States in the sessions of the Commission and its working groups, to make voluntary contributions to the Trust Fund for Granting Travel Assistance to Developing States members of UNCITRAL, at their request and in consultation with the Secretary-General.

24. It is also recalled that in operative paragraph 11 of Resolution 51/161 of 16 December 1996, the General Assembly decided to include the Trust Funds for Symposia and Travel Assistance in the list of funds and programmes that are to be dealt with at the United Nations Pledging Conference for Development Activities.

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